



CITY OF NEWTON, MASSACHUSETTS

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David B. Cohen
Mayor

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| Public Hearing Date: | May 11, 2004 |
| Land Use Action Date: | June 8, 2004 |
| Board of Aldermen Action Date: | June 21, 2004 |
| 90-Day Expiration Date: | August 9, 2004 |

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Nancy Radzevich, Chief Planner
Alexandra Ananth, Planner

SUBJECT: Petition #212-04 of GREGORY & MARGARET CROOK requesting a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NON-CONFORMING STRUCTURE by adding a dormer to the third-floor of an existing dwelling at 71 AUBURNDALE AVENUE, Ward 4, AUBURNDALE, on land known as Sec 44, Blk 17, Lot 99, containing approx 3,880 sf of land in a district zoned SINGLE RESIDENCE 3.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

I. ELEMENTS OF THE PETITION

The petitioners are requesting a special permit to allow for an addition to a legal non-conforming, single-family house, in a Single Residence 3 District. The existing building was constructed in 1890 and is located 1.8 ft. from the east side lot line. The petitioners are proposing to enlarge the existing 1,324 sq. ft. 2½-story house by adding a stair dormer to increase the headroom for a deficient stairwell leading to the 3rd floor and to extend the attic floor area on the non-conforming side of the residence.

The City's Chief Zoning Code Official has completed his review of this application for special permit, and a copy of his memorandum, dated May 3, 2004, is attached to this document (SEE ATTACHMENT "A").

Although the square footage of the dormer addition is relatively minor (200 sq. ft.), it does not fall into the parameters of "*de minimis*" due to its proximity to the abutting structure. Section 30-21(c) states as one of the conditions that must be met in order to fall into this category:

“...the resulting distance to the nearest residence at the side where the proposed construction will take place is equal to or greater than the sum of the required setbacks of the two adjacent lots....”

The residence at 71 Auburndale Avenue is 1.8 ft. from its eastern lot line, and the abutting neighbor appears to be of approximately 8.5 ft. from its western side lot line. Required side yard setbacks for Single Residence 3 Districts are 7.5 feet, making the *de minimis* setback requirement between the two structures 15 feet.

II. ZONING RELIEF BEING SOUGHT

The petitioners are seeking approval under or relief from Section 30-21 (b), which allows for alterations to a non-conforming structure to allow for a dormer within the non-conforming side yard setback.

III. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board should consider the following:

- 1. Whether the extension and enlargement of the existing non-conforming structure will have any adverse impacts on abutting properties or neighborhood character; and*
- 2. Whether the proposed extension of the existing non-conforming structure will be substantially more detrimental than the existing structure.*

IV. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Site

The subject property consists of a 3,880 sq. ft. rectangular lot located at 71 Auburndale Avenue, in Auburndale. The site is improved with a 2½-story, 1,324 sq. ft, single-family residence and is set back approximately 14.7 ft. from the street. A 68 ft. long driveway runs along the western property line terminating in front of a single-car garage. The residence is non-conforming due to the lot size, frontage, and proximity of the residence to the east side lot line. The residence is approximately 1.8 ft. from the east lot line, and approximately 10 ft. from the abutting residence to the east.



71 Auburndale Avenue

B. Neighborhood

The subject property is located on the northern side of Auburndale Avenue, midway between Rebecca Road and Harold Terrace. The subject property is located within a Single Residence 3 District, just north of a Multi-Residence 1 District. The site is approximately ½-mile north of the MassTurnpike. Single-family residences abut the subject property on all sides, though there are a few two-family dwellings scattered throughout the surrounding area. Overall, the lot and existing structure are similar in size and scale with other residences in the immediate neighborhood.

V. **ANALYSIS**

A. Technical Considerations

The following is a technical review of both the existing residence and the proposed expanded residence based on the dimensional controls in a Single Residence 3 District for lots created before 1953:

| Criteria for SR-3 Districts | Required | Existing | Proposed |
|------------------------------------|-----------------|----------------------|----------------------|
| Minimum Lot Area | 7,000 sq. ft. | 3,880 sq. ft. | 3,880 sq. ft. |
| Frontage | 70 ft. | 37 ft. | 37 ft. |
| Setbacks: | | | |
| Front | 25 ft. | 14.7 ft. | 14.7 ft. |
| Side (west) | 7.5 ft. | 12 ft. | 12 ft. |
| Side (east) | 7.5 ft. | 1.8 ft. | 1.8 ft. |
| Rear | 15 ft. | 50 ft. | 50 ft. |
| Max. Building Height | 30 ft. | 27.5 | 27.5 |
| Max. No. of Stories | 2½ | 2½ | 2½ |
| Max. Building Lot Coverage | 30% | NA | NA |
| Min. Amount of Open Space | 50% | NA | NA |
| FAR | .35 | NA | NA |

As shown in the table above, the site contains a number of non-conformities, the most relevant being the east side setbacks of approximately 1.8 ft, compared to the required 7.5 ft. The petitioners are seeking a special permit to expand the structure along the eastern sideline of the house with a stairwell dormer addition. The addition will not cause a further encroachment into the non-conforming side setback, as the plans call for a vertical extension of the existing sideline. Because the proposed addition is so small, it will not impact the Building Lot Coverage ratio or FAR which the petitioners did not provide.

B. Land Use

The subject property is located in a Single Residence 3 District and is consistent with the predominant land use of the immediate neighborhood. Single-family residences abut the property on all sides, though there are a few two-family dwellings scattered in the surrounding area. The subject property is comparable in scale to its neighbor to the east and is similarly situated with respect to proximity to the side lot lines to other structures in the immediate neighborhood.

C. Building and Site Design

As mentioned earlier, the subject property is currently improved with a 1,324 sq. ft. single-family residence comparable in scale to many of the existing residences in the area. The building is set back approximately 15 ft. from Auburndale Avenue and has side setbacks of approximately 1.8 and 12 ft. on the east and west sides respectively. The dormer addition will extend the east building line vertically, but will not further encroach into the side setback. The addition would allow for increased headroom in the stairwell leading to the 3rd floor and will add approximately 200 sq. ft. to the 3rd floor. Although the extension of the attic floor area will result in an expansion of livable floor area adjacent to the stairwell, its impacts on the abutting property at 69 Auburndale Avenue appear to be minimal.

According to plans provided, the addition will consist of similar vinyl siding to match the existing facade, and the entire roof will be re-shingled. Two windows will be installed in the proposed dormer that should not line up with the windows of the abutting property at 69 Auburndale Avenue.

Though the petitioners have provided building elevations of the proposed addition, the plans are not stamped by a registered architect.

D. Landscaping

The petitioners did not submit a landscape plan and it does not appear that the petitioners will be removing any trees or adding additional landscaping. Because of the location of the structure in relation to the side lot line, there does not appear to be an opportunity to install landscaping to screen the dormer on the petitioners' property.

E. Relevant Site Plan Approval Criteria

1. Consideration of site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures.

The proposed dormer addition will vertically extend the sideline of the building. Though the proposed addition is only 1.8 ft. from the side lot line, it will not further encroach into the setbacks of the existing structure. Also, the proposed addition does not appear to be out of character with the neighborhood as other properties have similar dormer additions and are similarly situated close to their respective lot lines.

2. Screening of parking areas and structure(s) on the site from the adjoining premises or from the street.

The petitioners are not proposing additional landscaping to screen the proposed addition from the street or the immediate abutting neighbors to the east of the subject property. Because of the location of the structure in relation to the side lot line, there does not appear to be an opportunity to install landscaping to screen the dormer on the petitioners' property.

F. Relevant Special Permit Criteria

1. The specific site is an appropriate location for such use, structure.

The subject property is consistent with the predominant land use of the immediate neighborhood and is comparable in scale to its abutting neighbor to the east. Due to its size and its use (stairway), the proposed dormer addition should have minimal impact on the site or the immediate abutters.

2. The use as developed and operated will not adversely affect the neighborhood.

The addition should not significantly impact the streetscape along Auburndale Avenue as the proposed addition is set back approximately 20 ft, and should not adversely affect the neighborhood. Although the extension of the attic floor area will result in an expansion of livable floor area adjacent to the stairwell, its impacts on the abutting property at 69 Auburndale Avenue appear to be minimal.

VI. SUMMARY

The petitioners are requesting a special permit to allow for an addition to a legal non-conforming, single-family house, in a Single Residence 3 District. The existing building was constructed in 1890 and is located 1.8 ft. from the east side lot line. The petitioners are proposing to enlarge the existing 1,324 sq. ft. 2½-story house by adding a stair dormer to increase the headroom for a deficient stairwell leading to the 3rd floor and to extend the attic floor area on the non-conforming side of the residence. The addition will not cause a further encroachment into the non-conforming side setback, as the plans call for a vertical extension of the existing sideline. Because the proposed addition is so small, it will not impact the Maximum Building Lot Coverage ratio or FAR, and its impacts on the abutting property at 69 Auburndale Avenue appear to be minimal.